THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10865 of 2006

03.4.2007

Between:
Adapa Krishna Murthy, S/o.Ramaswamy

…Petitioner

AND

The Regional Joint Commissioner, Endowments, Kakinada,
East Godavari District
And others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10865 of 2006

ORDER:

The petitioner is allegedly tenant of agricultural wetland admeasuring Acs.2.50 belonging to Sri Vijaya Janardhanaswamy vari Devasthanam, Ramanakkapeta village of V.Kothapalli Mandal in East Godavari District. He alleges that initially his father, Ramaswamy, took an extent of Acs.10.00 in survey No.239 on lease. During his lifetime, the petitioner, his brother, father and mother, used to cultivate the land. After the death of the father, on 16.6.1995, petitioner continued to be less in respect of Acs.2.50 and other members of the family continued in cultivation of the remaining extent of the land. After coming into force of Section 82 of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1989 (the Act, for brevity), as amended by A.P.Act No.27 of 2002, the petitioner made application under Rule 3 of A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (the Rules, for brevity), seeking a declaration that he is a landless poor person. By an order dated 25.5.2005, the second respondent dismissed the application being M.A.No.487 of 2005. Feeling aggrieved by the same, the petitioner preferred appeal under Rule 4 of the Rules before the first respondent, who dismissed the same being Appeal No.425 of 2005 on 28.2.2006, aggrieved by which the present writ petition is filed.

Learned Counsel for the petitioner submits that the actual area under cultivation of the petitioner is Acs.2.50 and, therefore, he must be treated as a landless poor person as per the explanation to Section 82(2) of the Act. The submission is wholly misconceived. A Division Bench of this Court in W.A.No.1302 of 2003, dated 05.08.2003,

considered the question the actual area in possession of the legal heirs of the lessee is to be taken into consideration for the purpose of reckoning whether a person is a landless poor or not. Having regard to the provisions of the Act, the Division Bench held as under.

> We are unable to accept the submission made on behalf of appellants. As a matter of fact, direction of learned single Judge is very clear that for the purpose of deciding the question as regards status of the landless poor, it is the status of the actual lessee of the land which has to be taken into account and not of any other person. The *inter se* family partition effected between the members of the family will be of no consequence. It is the relationship between the lessor and lessee, which is the *sine qua non*. Therefore, only the status of the actual lessee will be taken into consideration and the words used in sub-rule (2) of Rule 3 of the above Rules i.e., 'cultivating tenant' would confine only to actual lessee and not all persons, who might be cultivating the land by private negotiations…

Following the above judgment of the Division Bench, the writ petition is dismissed. No costs.

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(**V.V.S.RAO, J**)

April 03, 2007.
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